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**FILED**

**APR 25 2001**

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAVEL IVANOVICH LAZARENKO,

Defendant.

No. CR-00-0284 MJJ

**JOINT CONFERENCE STATEMENT**

Hearing: May 10, 2001  
Time: 2:30 p.m.

**INTRODUCTION**

Pursuant to the court's request at the last hearing, the parties' attorneys have conferred on two occasions to discuss legal issues relating to the role of Ukrainian law in this case, the burden of proof on such issues, and the witnesses who may be called to testify on these issues.. Based upon these discussions, correspondence and pleadings that have been filed in the interim, the parties report as follows.

**I. Status Of Ukrainian Law.**

The parties have previously stated their positions on the role of Ukrainian law in their pleadings filed pursuant to Rule 26.1, Fed. Rules Crim. Pro. The parties continue

1 to adhere to those positions, with the result that they disagree on the issues whether  
2 proof of Ukrainian law will be necessary as an element of the charged offenses and  
3 which party would carry the burden of proof. The parties agree that the Court should  
4 determine these issues as a pretrial matter after further briefing by the parties.

5 2. Expert Witnesses.

6 The defense expects that it will be necessary to depose expert witnesses in  
7 Ukraine concerning the status of Ukrainian law as it applies to this case. The defense  
8 has proffered the names of two prospective experts and is considering several other  
9 experts, although these efforts have been hampered by the Bureau of Prisons' new  
10 regulations concerning telephone access at F.D.C. Dublin. The government has  
11 suggested that visas can be secured from Ukraine for potential witnesses (both defense  
12 and government alike), so that the experts may attend hearings here. The defense is  
13 skeptical.

14 The government has proffered the name of an expert who will be available to  
15 testify at hearings in this court.

16 3. Other Witnesses For Pretrial Motions.

17 The defense has proffered the names of five witnesses they intend to depose in  
18 Ukraine on issues underlying prospective pretrial motions for outrageous governmental  
19 misconduct/selective prosecution and for suppression of LAZARENKO's Swiss  
20 conviction: Leonid Kuchma, M. Potebanko, O.M. Volkov, Victor Pinchuk and Nikolai  
21 Melnichenko.<sup>1</sup> The government opposes Rule 15 depositions of these witnesses on  
22 relevance and other grounds.

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25 <sup>1</sup>The defense recently learned that the U.S. government has granted  
26 asylum to Nikolai Melnichenko, Kuchma's former bodyguard who secretly tape-  
recorded Kuchma's conversations with aids. The defense is therefore asking for the  
government's assistance in finding Melnichenko and gaining access to the tapes.

1 DATED: April 25, 2001

Respectfully submitted,

2 COOPER, ARGUEDAS & CASSMAN

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5 TED W. CASSMAN  
6 Attorneys for Defendant  
7 PAVEL LAZARENKO

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9 DATED: April 25, 2001

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Martha Boersch,  
Assistant U.S. Attorney

**PROOF OF SERVICE BY UNITED STATES MAIL**

I am a citizen of the United States. I am over the age of 18 and not a party to the within action. My business address is 5900 Hollis Street, Suite N, Emeryville, California, 94608.

On April 25, 2001, I served the foregoing: JOINT CONFERENCE STATEMENT on the following person(s) by posting a true copy thereof, enclosed in a sealed envelope, via United States mail, first class postage prepaid, addressed to the following parties:

Martha Boersch  
Jonathan Howden  
Assistant U.S. Attorney  
450 Golden Gate Avenue  
San Francisco, CA 94102

I certify or declare under penalty of perjury that the foregoing is true and correct.

Executed on April 25, 2001, at Emeryville, California.

  
LINDA STIGLICH